

PRIOR PROVISIONS

A prior section 2466, Pub. L. 93-618, title V, § 506, as added Pub. L. 98-573, title V, § 507(a), Oct. 30, 1984, 98 Stat. 3023, related to agricultural exports of beneficiary developing countries, prior to the general amendment of this subchapter by Pub. L. 104-188.

EFFECTIVE DATE

Section applicable to articles entered on or after Oct. 1, 1996, with provisions relating to retroactive application, see section 1953 of Pub. L. 104-188, set out as a note under section 2461 of this title.

§ 2466a. Designation of sub-Saharan African countries for certain benefits

(a) Authority to designate

(1) In general

Notwithstanding any other provision of law, the President is authorized to designate a country listed in section 107 of the African Growth and Opportunity Act [19 U.S.C. 3706] as a beneficiary sub-Saharan African country eligible for the benefits described in subsection (b)—

(A) if the President determines that the country meets the eligibility requirements set forth in section 104 of that Act [19 U.S.C. 3703], as such requirements are in effect on May 18, 2000; and

(B) subject to the authority granted to the President under subsections (a), (d), and (e) of section 2462 of this title, if the country otherwise meets the eligibility criteria set forth in section 2462 of this title.

(2) Monitoring and review of certain countries

The President shall monitor, review, and report to Congress annually on the progress of each country listed in section 107 of the African Growth and Opportunity Act in meeting the requirements described in paragraph (1) in order to determine the current or potential eligibility of each country to be designated as a beneficiary sub-Saharan African country for purposes of this section. The President's determinations, and explanations of such determinations, with specific analysis of the eligibility requirements described in paragraph (1)(A), shall be included in the annual report required by section 106 of the African Growth and Opportunity Act [19 U.S.C. 3705].

(3) Continuing compliance

(A) In general

If the President determines that a beneficiary sub-Saharan African country is not making continual progress in meeting the requirements described in paragraph (1), the President shall terminate the designation of that country as a beneficiary sub-Saharan African country for purposes of this section, effective on January 1 of the year following the year in which such determination is made.

(B) Notification

The President may not terminate the designation of a country as a beneficiary sub-Saharan African country under subparagraph (A) unless, at least 60 days before the termination of such designation, the Presi-

dent notifies Congress and notifies the country of the President's intention to terminate such designation, together with the considerations entering into the decision to terminate such designation.

(b) Preferential tariff treatment for certain articles

(1) In general

The President may provide duty-free treatment for any article described in section 2463(b)(1)(B) through (G) of this title that is the growth, product, or manufacture of a beneficiary sub-Saharan African country described in subsection (a), if, after receiving the advice of the International Trade Commission in accordance with section 2463(e) of this title, the President determines that such article is not import-sensitive in the context of imports from beneficiary sub-Saharan African countries.

(2) Rules of origin

The duty-free treatment provided under paragraph (1) shall apply to any article described in that paragraph that meets the requirements of section 2463(a)(2) of this title, except that—

(A) if the cost or value of materials produced in the customs territory of the United States is included with respect to that article, an amount not to exceed 15 percent of the appraised value of the article at the time it is entered that is attributed to such United States cost or value may be applied toward determining the percentage referred to in subparagraph (A) of section 2463(a)(2) of this title;

(B) the cost or value of the materials included with respect to that article that are produced in one or more beneficiary sub-Saharan African countries or former beneficiary sub-Saharan African countries shall be applied in determining such percentage; and

(C) the direct costs of processing operations performed in one or more such beneficiary sub-Saharan African countries or former beneficiary sub-Saharan African countries shall be applied in determining such percentage.

(3) Rules of origin under this subchapter

The exceptions set forth in subparagraphs (A), (B), and (C) of paragraph (2) shall also apply to any article described in section 2463(a)(1) of this title that is the growth, product, or manufacture of a beneficiary sub-Saharan African country for purposes of any determination to provide duty-free treatment with respect to such article.

(c) Withdrawal, suspension, or limitation of preferential tariff treatment

(1) In general

The President may withdraw, suspend, or limit the application of duty-free treatment provided for any article described in subsection (b)(1) of this section or section 112 of the African Growth and Opportunity Act [19 U.S.C. 3721] with respect to a beneficiary sub-Saharan African country if the President de-

termines that withdrawing, suspending, or limiting such duty-free treatment would be more effective in promoting compliance by the country with the requirements described in subsection (a)(1) than terminating the designation of the country as a beneficiary sub-Saharan African country for purposes of this section.

(2) Notification

The President may not withdraw, suspend, or limit the application of duty-free treatment under paragraph (1) unless, at least 60 days before such withdrawal, suspension, or limitation, the President notifies Congress and notifies the country of the President's intention to withdraw, suspend, or limit such duty-free treatment, together with the considerations entering into the decision to terminate such designation.

(d) Review and public comments on eligibility requirements

(1) In general

In carrying out subsection (a)(2), the President shall publish annually in the Federal Register a notice of review and request for public comments on whether beneficiary sub-Saharan African countries are meeting the eligibility requirements set forth in section 104 of the African Growth and Opportunity Act [19 U.S.C. 3703] and the eligibility criteria set forth in section 2462 of this title.

(2) Public hearing

The United States Trade Representative shall, not later than 30 days after the date on which the President publishes the notice of review and request for public comments under paragraph (1)—

(A) hold a public hearing on such review and request for public comments; and

(B) publish in the Federal Register, before such hearing is held, notice of—

(i) the time and place of such hearing; and

(ii) the time and place at which such public comments will be accepted.

(3) Petition process

(A) In general

Not later than 60 days after June 29, 2015, the President shall establish a process to allow any interested person, at any time, to file a petition with the Office of the United States Trade Representative with respect to the compliance of any country listed in section 107 of the African Growth and Opportunity Act [19 U.S.C. 3706] with the eligibility requirements set forth in section 104 of such Act [19 U.S.C. 3703] and the eligibility criteria set forth in section 2462 of this title.

(B) Use of petitions

The President shall take into account all petitions filed pursuant to subparagraph (A) in making determinations of compliance under subsections (a)(3)(A) and (c) and in preparing any reports required by this subchapter as such reports apply with respect to beneficiary sub-Saharan African countries.

(4) Out-of-cycle reviews

(A) In general

The President may, at any time, initiate an out-of-cycle review of whether a beneficiary sub-Saharan African country is making continual progress in meeting the requirements described in paragraph (1). The President shall give due consideration to petitions received under paragraph (3) in determining whether to initiate an out-of-cycle review under this subparagraph.

(B) Congressional notification

Before initiating an out-of-cycle review under subparagraph (A), the President shall notify and consult with Congress.

(C) Consequences of review

If, pursuant to an out-of-cycle review conducted under subparagraph (A), the President determines that a beneficiary sub-Saharan African country does not meet the requirements set forth in section 104(a) of the African Growth and Opportunity Act (19 U.S.C. 3703(a)), the President shall, subject to the requirements of subsections (a)(3)(B) and (c)(2), terminate the designation of the country as a beneficiary sub-Saharan African country or withdraw, suspend, or limit the application of duty-free treatment with respect to articles from the country.

(D) Reports

After each out-of-cycle review conducted under subparagraph (A) with respect to a country, the President shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report on the review and any determination of the President to terminate the designation of the country as a beneficiary sub-Saharan African country or withdraw, suspend, or limit the application of duty-free treatment with respect to articles from the country under subparagraph (C).

(E) Initiation of out-of-cycle reviews for certain countries

Recognizing that concerns have been raised about the compliance with section 104(a) of the African Growth and Opportunity Act (19 U.S.C. 3703(a)) of some beneficiary sub-Saharan African countries, the President shall initiate an out-of-cycle review under subparagraph (A) with respect to South Africa, the most developed of the beneficiary sub-Saharan African countries, and other beneficiary countries as appropriate, not later than 30 days after June 29, 2015.

(e) Beneficiary sub-Saharan African countries, etc.

For purposes of this subchapter—

(1) the terms “beneficiary sub-Saharan African country” and “beneficiary sub-Saharan African countries” mean a country or countries listed in section 107 of the African Growth and Opportunity Act [19 U.S.C. 3706] that the President has determined is eligible under subsection (a) of this section.

(2) the term “former beneficiary sub-Saharan African country” means a country that,

after being designated as a beneficiary sub-Saharan African country under the African Growth and Opportunity Act [19 U.S.C. 3701 et seq.], ceased to be designated as such a country by reason of its entering into a free trade agreement with the United States.

(Pub. L. 93-618, title V, §506A, as added Pub. L. 106-200, title I, §111(a), May 18, 2000, 114 Stat. 257; amended Pub. L. 108-274, §7(a)(2), July 13, 2004, 118 Stat. 823; Pub. L. 114-27, title I, §104(a), (b), 105, June 29, 2015, 129 Stat. 365.)

REFERENCES IN TEXT

The African Growth and Opportunity Act, referred to in subsec. (e)(2), is title I of Pub. L. 106-200, May 18, 2000, 114 Stat. 252, as amended, which is classified principally to chapter 23 (§3701 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3701 of this title and Tables.

AMENDMENTS

2015—Subsec. (a)(3). Pub. L. 114-27, §105(a), designated existing provisions as subpar. (A), inserted heading, and added subpar. (B).

Subsec. (b)(2)(C). Pub. L. 114-27, §104(a), added subpar. (C).

Subsec. (b)(3). Pub. L. 114-27, §104(b), added par. (3).

Subsecs. (c), (d). Pub. L. 114-27, §105(b), added subsec. (c) and redesignated former subsec. (c) as (d).

Subsecs. (d), (e). Pub. L. 114-27, §105(c), added subsec. (d) and redesignated former subsec. (d) as (e).

2004—Subsec. (b)(2)(B). Pub. L. 108-274, §7(a)(2)(A), inserted “or former beneficiary sub-Saharan African countries” after “countries”.

Subsec. (c). Pub. L. 108-274, §7(a)(2)(B), substituted “subchapter—” for “subchapter,”, inserted par. (1) designation before “the terms”, and added par. (2).

EFFECTIVE DATE OF 2015 AMENDMENT

Pub. L. 114-27, title I, §104(d), June 29, 2015, 129 Stat. 365, provided that: “The amendments made by subsections (a) and (b) [amending this section] take effect on the date of the enactment of this Act [June 29, 2015] and apply with respect to any article described in section 503(b)(1)(B) through (G) of the Trade Act of 1974 [19 U.S.C. 2463(b)(1)(B) through (G)] that is the growth, product, or manufacture of a beneficiary sub-Saharan African country and that is imported into the customs territory of the United States on or after the date that is 30 days after such date of enactment.”

[For definition of “beneficiary sub-Saharan African country” as used in section 104(d) of Pub. L. 114-27, set out above, see section 112 of Pub. L. 114-27, set out as a note under section 3701 of this title.]

MODIFICATIONS TO THE HARMONIZED TARIFF SCHEDULE

Pub. L. 114-27, title I, §104(c), June 29, 2015, 129 Stat. 365, provided that: “The President may proclaim such modifications as may be necessary to the Harmonized Tariff Schedule of the United States (HTS) to add the special tariff treatment symbol ‘D’ in the ‘Special’ subcolumn of the HTS for each article classified under a heading or subheading with the special tariff treatment symbol ‘A’ or ‘A*’ in the ‘Special’ subcolumn of the HTS.”

EX. ORD. NO. 13720. DELEGATION OF CERTAIN AUTHORITIES AND ASSIGNMENT OF CERTAIN FUNCTIONS UNDER THE TRADE PREFERENCES EXTENSION ACT OF 2015

Ex. Ord. No. 13720, Feb. 26, 2016, 81 F.R. 11089, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Trade Preferences Extension Act of 2015 (the “Act”) (Public Law 114-27), and section 301 of title 3, United States Code, I hereby order as follows:

SECTION 1. *Authorities and Functions under the Act.* (a) Except as provided in subsections (b), (c), and (d) of this section, the authorities granted to and functions specifically assigned to the President under title I of the Act are delegated and assigned, respectively, to the United States Trade Representative (U.S. Trade Representative).

(b) The exercise of the following authorities of, and functions specifically assigned to the President under title I of the Act are not delegated or assigned under this order:

(i) section 104(c) of the Act;

(ii) sections 105(a) and (b) of the Act; and

(iii) sections 506A(d)(3)(B) and (d)(4)(C) of the Trade Act of 1974 (as amended by the Act).

(c) The functions of the President under section 13(c) of the AGOA Acceleration Act of 2004, as added by section 109 of the Act, are assigned to the Administrator of the United States Agency for International Development, in collaboration with the Secretary of Agriculture.

(d) The functions of the President under section 110(a) of the Act are assigned to the U.S. Trade Representative, in consultation with the Secretary of State.

SEC. 2. *Reducing Poverty and Eliminating Hunger.* The U.S. Trade Representative, with the advice and assistance of other executive departments and agencies involved in international programs to reduce poverty and eliminate hunger, shall perform the reporting function under section 701 of the Act.

SEC. 3. *General Provisions.* (a) In exercising authority delegated by or performing functions assigned in this order, officers of the United States:

(i) shall ensure that all actions taken by them are consistent with the President’s constitutional authority to (A) conduct the foreign affairs of the United States, including the commencement, conduct, and termination of negotiations with foreign countries and international organizations; (B) withhold information the disclosure of which could impair the foreign relations, the national security, the deliberative processes of the Executive, or the performance of the Executive’s constitutional duties; (C) recommend for congressional consideration such measures as the President may judge necessary or expedient; and (D) supervise the executive branch; and

(ii) may redelegate authority delegated by this order and may further assign functions assigned by this order to officers of any other department or agency within the executive branch to the extent permitted by law, and such re delegation or further assignment shall be published in the Federal Register.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

BARACK OBAMA.

§ 2466b. Termination of benefits for sub-Saharan African countries

In the case of a beneficiary sub-Saharan African country, as defined in section 2466a(c)¹ of this title, duty-free treatment provided under this subchapter shall remain in effect through September 30, 2025.

(Pub. L. 93-618, title V, §506B, as added Pub. L. 106-200, title I, §114, May 18, 2000, 114 Stat. 266; amended Pub. L. 108-274, §7(a)(1), July 13, 2004, 118 Stat. 823; Pub. L. 114-27, title I, §103(a), June 29, 2015, 129 Stat. 364.)

¹ See References in Text note below.